Rewrite Claim 2

2.   (Amended)   A roof membrane which is compatible with bituminous adhesives comprising:

an outer layer membrane selected from the group consisting of EPDM, EPM, TPO, PVC and CSPE;

a protective layer bonded to a surface of said outer membrane wherein said protective layer is resistant to bituminous adhesive;

a first adhesive layer bonding said outer layer membrane to said protective layer; and

said protective layer in turn bonded to a fleecy layer.

Rewrite Claim 7

7.   (Amended)   The roof membrane claimed in claim 1 wherein said outer layer membrane is EPDM.

Rewrite Claim 9

9.   (Amended)   The roof membrane claimed in claim 1 wherein said outer layer membrane is a thermoplastic olefin.

Rewrite Claim 10

10.   (Amended)   A roof structure comprising a roof deck and a roof membrane;

said roof membrane comprising an outer EPDM layer bonded to a protective layer, said protective layer comprising a polar polymer resistant to bituminous adhesive;

a fleecy layer bonded to said protective layer wherein said fleecy layer is in turn bonded to said roof deck by a bituminous adhesive layer.

DISCUSSION

Applicant would request reconsideration of the rejections set forth in the outstanding office action in light of the preceding amendments.

Applicant has amended claims 1, 2, 7, 9 and 10 to address the §112 issues. As the Examiner indicated with respect to claim 1 and the claims dependent thereon, the term membrane is intended to indicate outer layer membrane. Accordingly Applicant has specified that in claims 1, 2, 7 and 9. Applicant has also amended claim 10.

Further, Applicant would request reconsideration of the rejections under 35 U.S.C. §§102 and 103 of claims 1 and 5-9. Claims 2-4 and 10 and 11 should be allowable as indicated in the prior office action.

With respect to claim 1 in particular, Applicant would maintain that the Venable patent specifically does not disclose a protective layer bonded to the outer membrane layer wherein the protective layer is resistant to bituminous adhesives. As indicated in the specification, the fleeceback material disclosed in Venable uses a polyolefin adhesive layer, i.e., polyethylene to bond the fleece to EPDM. This layer is not protective in any way. The bituminous adhesive can migrate through the polyethylene and therefore is unsuitable for use in the present invention and by definition. Thus, the material disclosed in Venable does not have a protective layer.

To overcome the deficiencies in the material disclosed in Venable and permit its use in a bituminous environment, Applicant has utilized a protective layer. It is not an obvious

matter to simply substitute one adhesive for another in this application. One must select an adhesive which is compatible with the membrane and not destroyed by the bituminous adhesive. Although Pushaw does disclose using polyurethane, polyester, or polyether adhesives, it does not address this issue of resistance to bituminous adhesives and certainly there is no suggestion whatsoever to modify the disclosure in Venable to arrive at the present invention. In fact, in the environment in which Venable is practiced, i.e., a non-bituminous environment, polyethylene is in all likelihood the preferred adhesive. There is no reason for one to try some other adhesive, certainly one which would not have the same adhesion to the EPDM.

The net effect of Applicant's invention is to permit a fleeceback membrane to be used in a totally new application. It is in effect combining the two very distinct types of roofs, i.e., built-up type roofs using bituminous adhesives and membrane roofs which in the past would not use a bituminous adhesive. For this reason it is Applicant's belief that its invention as now claimed is new and unobvious in light of the cited art and accordingly Applicant would request the Examiner reconsider the outstanding rejections.

Respectfully submitted,

WOOD, HERRON & EVANS

By:_____

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